

**MINUTES**

**OF THE**

**NATURAL RESOURCE COMMISSION**

**MEETING**

**NOVEMBER 9, 2006**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by Chairperson Schneider at 8:30 a.m. on Thursday, November 9, 2006 in the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

Joan Schneider  
Carol Kramer  
Lennis Moore  
Randy Duncan  
Richard Kim Francisco  
Elizabeth Garst

### MEMBERS ABSENT

Janice Marcantonio

### APPROVE AGENDA

Request was made to add an informational item numbered 16a State Wildlife Action Plan Update, presented by Doug Harr, Wildlife Diversity Program Coordinator.

The Commission was also asked to amend the agenda by tabling Item 8—Appeal of Proposed Decision – William J. Hubbard, Jr.

*Motion was made by Commissioner Kramer to approve the November 9, 2006 NRC agenda as amended. Seconded by Commissioner Francisco. Motion carried unanimously.*

**AGENDA APPROVED**

### APPROVE MINUTES

A typographical error in the item brief as displayed on page 11 was noted and a hard to understand or misplaced sentence in the REAP Congress Report was discussed. These will be reviewed and corrected.

*Motion was made by Commissioner Duncan to approve the October 12, 2006 NRC Minutes as corrected. Seconded by Commissioner Moore. Motion carried unanimously.*

**MINUTES APPROVED AS CORRECTED**

## DIRECTOR'S REMARKS

Director Vonk reported that a series of meetings will be held concurrently this evening at various locations around the state to discuss and receive comments on sustainable funding for natural resources. He said that the Sustainable Funding Committee has worked hard toward identifying and pursuing financial mechanisms that will help provide money for programs that will support and enhance the quality of our natural resources.

## CONSTRUCTION PROJECTS

Linda Hanson, Administrator, Management Services Division, presented the following item.

Bids were opened October 18, 2006 for the following project:

### Big Creek State Park, Polk Co. – Trail Program Building

This project consists of the construction of a one story, pre-engineered wood type building with metal roofing/siding, approximately 40' x 80', one unheated storage bay, two heated bays, two offices, a meeting/project room, and a restroom. The work also includes some concrete and class "A" crushed stone paving and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted 22% in REAP Open Spaces Acquisition and Development and 78% in REAP Land Management funds. DNR estimate was \$220,000. Twenty-two sets of Plans were issued. One responsive bid was received.

Rochon Corporation of Iowa, Inc.	Urbandale, IA	Base Bid:	\$ 484,855.37
Alternate #1: Deduct Geothermal, Provide Standard HVAC Heating and Cooling:		\$	0.00
Alternate #2: Deduct all Finishes (Interior: walls, ceiling, trim, painting, etc.)		\$	6,263.00

Staff recommends rejecting all bids and redesign and re-bid the project.

*Motion was made by Commissioner Moore to reject all bids and redesign and re-bid the project at a later date. Seconded by Commissioner Duncan. Motion carried unanimously.*

### CONSTRUCTION PROJECT BID REJECTED

Bids were opened October 25, 2006 for the following project:

### Lake Sugema Fish and Wildlife Area, Van Buren Co. – Pole Storage Building

The work consists of the construction of a one story, pre-engineered wood type building with metal roofing/siding, approximately 40' x 80'. The work also includes some concrete and class "A" crushed stone paving and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted 100% in Fish and Wildlife Non-Habitat Stamp Fund (see capital link item #58). DNR estimate is \$ 80,000. Fourteen sets of Plans were issued. Four bids were received.

McCubbin Construction Corp.	Davenport, IA	\$ 87,643.50
Bridge City Construction, Inc.	Ottumwa, IA	\$ 89,839.00
Bi-State Contracting, Inc.	Burlington, IA	\$104,465.60
Conner/Pacemaker, Inc.	Washington, IA	\$129,597.00

Staff recommends award of a contract to McCubbin Construction Corp., low bidder.

*Motion was made by Commissioner Kramer to approve the low bid of McCubbin Construction Corp. of Davenport, Iowa, in the amount of \$87,643.50 for a pole storage building at Lake Sugema Fish and Wildlife Area in Van Buren County. Seconded by Commissioner Garst. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

### **Otter Creek WMA (Kunch Tract), Tama Co. – Wetland Construction**

This project consists of the construction of four compacted earthfill wetland dikes and incidental work as required by the Plans and the DNR Construction Inspector. NRCS estimate is \$125,000. DNR estimate is \$78,000. Project is budgeted 100% in NRCS funds (see capital link item #40). Nineteen sets of Plans were issued. Nine bids were received.

Sterk Excavating, Inc.	Otley, IA	\$ 61,447.50
Arlen Faas, dba Faas Construction	Brooklyn, IA	\$ 62,520.00
Weaver's, Inc.	Tipton, IA	\$ 71,364.03
Vieth Construction Corp.	Cedar Falls, IA	\$ 71,786.00
Brian Miller Excavating, L.L.C.	Marengo, IA	\$ 73,506.00
Peterson Contractors, Inc.	Reinbeck, IA	\$ 73,781.00
Schoon Construction, Inc.	Grinnell, IA	\$ 76,486.20
Cole Construction Company, Inc.	Keosauqua, IA	\$ 81,287.58
Steger Construction, Inc.	Dyersville, IA	\$109,694.00

Staff recommends award of a contract to Sterk Excavating, Inc., low bidder.

*Motion was made by Commissioner Francisco to approve the low bid of Sterk Excavating, Inc. of Otley, Iowa, in the amount of \$61,447.50 for wetland construction at Otter Creek WMA in Tama County. Seconded by Commissioner Kramer. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

### **Union Grove State Park, Tama Co. – Subsurface Water Containment Curtain**

Significant seepage/leakage has been observed from Union Grove Lake. Lake water is short-circuiting the overflow weir and spillway structure and discharging downstream of the dam. Volumes of leakage are significant enough to lower the lake level to the point of interfering with key recreational uses of the lake. Leakage appears to be traveling primarily through the highly

weathered and fractured limestone rock near the ground surface. Lesser flow is expected to be traveling through the underlying weathered siltstone.

The project consists of the design and installation of curtain grouting of the fractured limestone bedrock between the lake and the leak discharge point downstream from the dam to remediate the leakage. A total of 250-300 linear feet of grout curtain and up to 60 grout locations are included in the preliminary estimate. The Project is budgeted \$120,000 in Lake Restoration funds (see capital link item #93) and the remaining amount in Lake Water Quality Improvement (see capital link item #107). The DNR estimate is \$ 175,000. Project was advertised and Notices of Interest were sent to seven firms. Two firms expressed interest in the Request for Proposals. One Proposal was received.

Hayward Baker, Inc.

Roselle, IL

\$180,750.00

Staff recommends award of contract to Hayward Baker, Inc.

*Motion was made by Commissioner Duncan to approve the bid of Hayward Baker, Inc. of Roselle, IL in the amount of \$180,750.00 for a subsurface water containment curtain at Union Grove State Park in Tama County. Seconded by Commissioner Kramer. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

Bids were opened November 1, 2006 for the following project:

**Lacey Keosauqua State Park, Van Buren Co. – Water & Wastewater System Improvements**

This project consists of the construction of wastewater facility improvements including construction of a two-cell controlled discharge lagoon, three on-site sand filters, two wastewater pump stations, force main, water main and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted 100% in Parks Health and Safety (see capital link item #177). DNR estimate is \$600,000. Twenty-eight sets of Plans were issued. Two valid bids were received.

DeLong-Keith Construction, Inc.

Washington, IA

\$ 609,384.16

Drish Construction, Inc.

Brighton, IA

\$ 622,694.00

Staff recommends award of a contract to DeLong-Keith Construction, Inc., low bidder.

*Motion was made by Commissioner Francisco to approve the low bid of DeLong-Keith Construction, Inc. of Washington, Iowa, in the amount of \$609,384.16 for water and wastewater system improvements at Lacey Keosauqua State Park in Van Buren County. Seconded by Commissioner Garst. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**



Change Order for the following project:

### **Lake Cornelia WMA, Wright Co. – Bike Trail**

This project consists of the construction of a granular surfaced bike trail, a small boat harbor, a wetland to mitigate habitat loss, a new bike trail bridge, raising of a historic bridge, and incidental work as required by the Plans and DNR Construction Inspector. Project is budgeted 100% in Environment First, Lake Restoration Fund. DNR estimate was \$259,000. Twenty-five sets of Plans were issued. Seven valid bids were received.

Natural Resources Commission awarded the contract to Richards Construction Co., Inc., low bidder, for \$179,051.10 at its September 14, 2006 meeting.

This Change Order is for additional related work including expanding the quiet water marina to accommodate additional boat slips, doubling the marina. Funding of \$429,000 (see capital link item #169) is allocated specifically for Lake Cornelia area and must be used by June 30, 2007 or it reverts back to the state's General Funds.

Staff recommends approval of a Change Order in the amount of approximately \$105,000 to Richards Construction Co., Inc.

*Motion was made by Commissioner Duncan to approve a change order in the amount of approximately \$105,000 to Richards Construction Co., Inc. for bike trail work at Lake Cornelia WMA in Wright County. Seconded by Commissioner Kramer. Motion carried unanimously.*

### **CONSTRUCTION CHANGE ORDER APPROVED**

### **LAND ACQUISITION**

Linda Hanson, Administrator, Management Services Division, presented the following item.

#### **Algific Talus Slope, Bear Creek, Fayette County--Daisy**

The Natural Resource Commission's approval is requested to purchase a permanent conservation easement located in eastern Fayette County. Charley Daisy offers this 4.4-acre easement for the appraised price of \$4,000.

Rick Hansen provided the valuation and negotiated the purchase agreement.

This property is located one mile north of Brush Creek Canyon State Preserve, and three miles southwest of Wadena. The irregular-shaped tract reflects forest cover and steep bedrock slopes. Bear Creek, a trout stream forms part of the west and south boundaries of the property.

The purpose of the easement is to protect listed plant and animal species within a small natural area known as an algific talus slope (also known as a cold air slope). This rare ecosystem is one

of a few hundred tiny patches in the “Driftless Area” of Iowa, Wisconsin, Minnesota and Illinois. These slopes stay cool in the summer, so they host many threatened and endangered species.

This proposed conservation easement is permanent and shall run with the land. The easement will also allow the Department and invitees the right of access to monitor the property. There will be no public access on the property. The easement will restrict construction of buildings, roads, trails, tillage, harvesting, livestock grazing, and commercial development. The Parks Bureau will monitor and enforce the easement from the Volga River State Recreation Area.

Acquisition funding will be provided by 100% endangered species funds from the U.S. Fish & Wildlife Service. A land survey will not be required. The easement area has been fenced by the U.S. Fish & Wildlife Service with the prior permission of the landowner. Incidental closing costs will be the responsibility of the Department.

*Motion was made by Commissioner Francisco to approve the purchase of a 4.4 acre permanent conservation easement located at the Algific Talus Slope at Bear Creek in Fayette County from Charley Daisy for the appraised price of \$4,000. Seconded by Commissioner Kramer.*

Note was made that there is no public access to this area. Discussion continued about the various algific talus slope easements in northeast Iowa and the fact that they are not connected. These landforms are stand alone, unique ecological habitat and are not necessarily for recreation.

Commissioner Garst related that The Nature Conservancy, who has a large number of these easements that are protected in various ways, have increasingly started putting their focus on including the upland water sources that feed the slopes. She encouraged the department to be thinking about the upland of these areas as well as the slope itself.

Michael Smith, Attorney General’s Office noted that the US Fish and Wildlife Service has a person working on this program, which is under the Federal Endangered Species Act, to protect endangered snails in these micro habitats. He said that federal money is available under the Landowner Incentive Program (LIP). He added that they are looking up slope to protect the watershed going into that area.

*Motion carried unanimously.*

**EASEMENT PURCHASE APPROVED**

## **CONSERVATION EASEMENTS – PURPOSES AND MONITORING**

Linda Hanson, Management Services Division, presented the following item.

The Department provided information about conservation easements. Conservation easements have become an effective tool in conserving natural resources. They are a way to permanently protect natural landscapes from development while maintaining them in private ownership. Conservation easements can be relatively expensive and generally require more staff time to negotiate than fee title acquisitions. Staff was present to discuss the role of these easements in

the Department's efforts to protect Iowa's natural landscapes as well the Department's role in monitoring them in perpetuity and the IRS implications when these conservation easements are donated to the Department.

Michael Smith, Attorney General's Office, presented information on the history of conservation easements and reviewed the different types of easements. He said the main purpose of the current statute was to enable protection of some natural areas that otherwise would be threatened by development. He added that the statute does not say anything about public access on easements, so that is up to the negotiations, but generally it is hard to get public access on a conservation easement.

Mr. Smith went on to say that easements tend to be expensive and the department historically has taken the position, being a private land state with very little public land and a very thin budget, not to spend money to acquire easements when not getting public access.

Mr. Smith said that an inventory is being updated and information on the acres may be available at the next meeting. He said there have been between 26 and 28 easements acquired by DNR since the Protected Water Areas Plan in the early 1980's. He talked about the recent income tax deductibility changes that allow the landowner to deduct 100% from their income tax if they are a farmer. Mr. Smith said he feels it is good that the department is using these easements with the Protected Water Area Program. He suggested that DNR staff and Iowa Natural Heritage Foundation staff strategize about how to take advantage of the new deductibility provisions and go out and solicit donations.

Discussion continued with regard to restrictions placed on easements for use of the land. Mr. Smith stated that after first determining the purpose of the easement, negotiations with the landowner is when it is determined what can be done or cannot be done on the property.

Commissioner Garst commented that when the department accepts a conservation easement, it has an obligation to monitor it in perpetuity. She said that gets very expensive if monitoring is done right.

Dale Garner, Wildlife Bureau Chief, explained that the Wildlife Bureau has been putting infrastructure information on a GIS data base. He said plans are to have a system in place, which on an annual basis, informs when monitoring needs to be done. Mr. Garner said the easements from the LIP grants are monitored by the Fish and Wildlife Service. The Private Land Biologists work with the Fish and Wildlife Service to make sure those are monitored annually.

Mr. Garner talked about flowage easements to allow for water to drain across a landowner's property during a high water event. He said they also have some access easements to allow for management on some lands. Garner said there is not much monitoring on these types of easements. In addition, he talked about a development easement for a farm near Colter Marsh which is monitored on an annual basis.

John Walkowiak, Forestry Bureau Chief, talked about conservation easements with the Forest Legacy Program. He said that currently five parcels of land, totaling 1,300 acres have been

acquired for conservation easements with that program. He said the main purpose has been to maintain working forest areas and working with landowners that have an interest in sustaining natural resource management as well as to buffer public areas. The goal is to try to buffer state lands, parks, wildlife areas, forests, as well as county and federal properties to minimize development pressures that are going on all those parcels.

Mr. Walkowiak related that the Forest Legacy Program is a very developed and long process and requires commitment, time and patience of the landowners. The main purpose is working toward permanent protection of the land. He said that a Forest Stewardship Plan is prepared by the area forester and is monitored yearly by the district forester who will meet with the landowners. Mr. Walkowiak said that baseline information is established about each and every easement they are working on that involves photo points and GPS markings which are used for monitoring purposes and changes. He added that they look at this as an opportunity to work with those landowners that want to have permanent protection for their woodlands but that the bureaucracy of dealing with the federal government is a challenge.

Discussion continued regarding the Department's internal policies and communication of those policies with staff regarding the acquisition of conservation easements. Director Vonk acknowledged that there is recognition of the value of easements, both economically and for the resource but the agency may be somewhat faulty in its efforts internally to communicate with all our employees on those values.

Commissioner Duncan commented that it seems our purpose is to provide more public access so there is more land for people to enjoy, but that these conservation easements generally do not allow that. He asked how money is allocated for conservation easements as opposed to acquisitions.

Director Vonk responded that the budget has 230+ budget lines that are tracked, and a lot of those lines have very specific intended purposes. He said staff does recognize the broad range in uses of opportunities to protect unique resources in addition to recreational activities. Vonk added that one of the stresses in our state with regard to public hunting is the lack of access that hunters in our state have. He said that as we become more urbanized and more and more people lose connections through family, that problem is growing. He said he hopes to work within the new administration toward creating a public access program. Vonk said easements will become oriented more and more toward access on private lands as we go forward.

Marion Conover, Fisheries Bureau Chief related that at the June commission meeting an item will be presented on cold water stream easement acquisition. He explained that we have been operating with handshakes for access for anglers on those private trout streams, but dynamics are changing. He said a lot of acres have been purchased through the years for both habitat protection and access. Under the new program being developed, Mr. Conover said access is number one and the right to stock trout and to manage for habitat improvement is second, and then development. He said those are the minimum rights that we want to purchase as an easement on cold water streams.

<b>INFORMATION ITEM</b>
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## **CONSERVATION AND RECREATION DONATIONS**

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item.

The Natural Resource Commission is requested to approve the following donations.

### Parks Bureau:

Vermeer Manufacturing donated \$350.00 worth of labor and the use of a trencher for a 350 ft trench and backfilling at Red Haw State Park. The trench was for an electrical supply line to the Ranger Shelter.

Jacob Schultz donated \$108.00 for an Eagle Scout project rebuilding and repainting picnic tables at Lake Macbride State Park.

The Albert Andreas Foundation donated \$8000.00 to Lake Macbride State Park for park improvements.

Lake Park and Holding Corp donated \$1000.00 to be used towards construction of a new pit vault restroom in the campground at Union Grove State Park.

The Fish Shack donated 2 reptile heating pads, valued at \$50.00, for the aquariums at the EB Lyons Interpretive Center to create and improve two displays for visitors to enjoy.

Garry Meier donated \$369.00 to buy 3 park benches in memory of his Wife Diane Meier for the Volga River Recreation Area.

Warren Trotter donated \$306.00 to purchase 2 upright fire grills for Volga River Recreation Area.

### Law Enforcement Bureau:

WalMart donated 5000 rounds of Factory Federal .22 caliber ammunition, valued at \$100.00, for hunter education classes live fire exercises.

Tim Thompson, Wildlife Biologist received a request from Caleb McDowell regarding an Eagle Scout project that involves a memorial stone to be placed at the entrance of the shotgun range located on the Hawkeye Wildlife Area near Iowa City. The project also called for the pouring of 12 concrete shooting pads (6 ft. by 8 ft.) and the laying of 80 tons of gravel from the parking lot to the various shooting stations. The troops also straightened all of the shooting lane poles. The memorial stone is meant to honor Wendell Simonson former Conservation Officer assigned to Johnson County for most of his 39 years of service. Wendell passed away in 1996. A similar stone will be placed at the rifle range honoring Tim Dorr former Conservation Officer assigned to Cedar and Johnson Counties. Tim died after serving our natural resources for 31 years. Both officers enjoyed educating our youth and they had a love for the shooting sports.

This project was completed as an Eagle Scout Project by Caleb McDowell in conjunction with Wildlife Biologist Tim Thompson and Area Manager Dennis Procter and his crew. Caleb is a life scout with Troop 250 at St. Mark's church in Iowa City. Caleb completed this project with the help of his fellow scout troop and the help of donations of several businesses.

Here is a list of companies that assisted Caleb in donations:

Johnson county Chapter Whitetails Unlimited - \$800 donated  
Country Landscapes, Inc. - Donated both stones - \$600

Stone Pro - Engraving the Stones - \$350  
River Products Company, Inc. - 80 tons of gravel costing \$800  
Advanced Drainage Systems - 60 ft. of tubing  
Carl Chadek Trucking Service - \$420 donated  
Iowa City Ready Mix, Inc. - ½ price on cement for pads - \$500 donated  
Rosie Bollington - \$200 donation for food at the ceremony.  
Approximately 200 hours of time devoted to this project by Caleb, Troop 250 and the DNR staff at the Hawkeye Wildlife Area.

Wildlife Bureau:

Richard Sharp donated \$2.50 to the Fish and Wildlife Trust Fund.

Diane Ford-Shivvers expressed appreciation of our partners across the state in all our programs. She said that without those partners and without our staff that works in the local communities to get this participation these donations would not happen.

*Motion was made by Commissioner Kramer to approve the donations to the Conservation and Recreation Division. Seconded by Commissioner Francisco.*

Commissioner Francisco noted that not all contributions get noticed. He said that as a member of the Iowa Fisheries Society, he became aware that Don Kline, Fisheries Biologist in the Lost Grove Lake project, developed a program where he organized volunteer groups to construct habitat in different lagoons of the lake that is under construction. He noted that Don Kline has done a tremendous job organizing that community, noting that students from a subunit for the Iowa Fisheries Society spent a day at Lost Grove drilling holes and forming tire logs and dragging tire logs to various areas in one of the coves of the lake. Francisco said they not only gained valuable experience but they also provided a lot of effort.

*Motion carried unanimously.*

**DONATIONS APPROVED**

**CONTESTED CASE-APPEAL OF PROPOSED DECISION—WILLIAM J. HUBBARD, JR.**

On May 2, 2006, the Department issued a letter notifying William J. Hubbard, Jr. of the Department's intent to revoke and suspend his hunting and fishing licenses for a period of three years due to five convictions for making a false claim to obtain a resident license and one conviction for a nonresident fishing license violation entered by the District Court in and for Clayton County. Mr. Hubbard appealed and the matter was presented to Administrative Law Judge Paul McIntyre. On August 23, 2006, Judge McIntyre issued a Decision upholding the Department's suspension and revocation of the hunting and fishing licenses of William H. Hubbard, Jr. for a period of three years.

Mr. Hubbard is now appealing this Decision to the Commission. The Commission may uphold the Decision of the Administrative Law Judge, reverse the Decision, or modify the Decision in accordance with the applicable statutes and rules.

At the request of Mr. Hubbard and his attorney, this item is tabled until the December meeting.

<b>CONTESTED CASE TABLED</b>
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### **CONTRACT—SURVEY OF IOWAN'S WILLINGNESS TO PAY FOR NATURAL RESOURCE CONSERVATION**

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item.

The Sustainable Funding for Natural Resources Advisory Committee, as directed by the Iowa Legislature, has completed the selection process for hiring a consulting firm to complete research and surveying services, to determine Iowans' "willingness to pay" for natural resource conservation

The committee's DNR support staff submitted a Request for Proposal (RFP) to thirteen (13) firms soliciting services to help develop, administer, and analyze the results of a qualitative survey for this project. To comply with requirements set forth by the legislature, the advisory committee must ascertain the degree of commitment of Iowans to pay for improved conservation of the state's natural resources. This information must then be incorporated into a final report presented to the legislature by January 10, 2007.

Proposals were received on October 25<sup>th</sup> from seven (7) firms interested in our surveying needs. One firm was rejected for lack of information required by the RFP. All remaining bids were scored using a point system described in the RFP. The scoring team selected Fairbank, Maslin, Maullin & Associates (FFMA) at a cost of \$31,500 to develop, administer, and analyze the required survey. Of the six scored proposals, only two could complete the project within the legislature's narrowly specified time frame while also producing the most statistically valid results for a survey of "all Iowans".

Of the two firms, FFMA was selected on the basis of lower cost and other considerations, including: FMMA has extensive experience in assisting natural resource and outdoor recreation agencies and organizations. They work primarily on outdoor recreation, hunting, fishing, and natural resources research, public outdoor use patterns and issues, surveys, and reports, and they have conducted a large number of state and national surveys related to funding for natural resource conservation.

Commission approval is requested for the selection of Franklin, Maslin, Maullin & Associates at a cost of \$31,500 for the completion of research and surveying services to determine Iowans' willingness to pay for natural resource conservation. Funding for the survey will be shared by



the administrative budgets of the Director's Office, Conservation and Recreation Division, and Environmental Services Division.

*Motion was made by Commission Garst to approve the selection of Franklin, Maslin, Maullin & Associates at a cost of \$31,500 for the completion of research and surveying services to determine Iowans' willingness to pay for natural resource conservation. Seconded by Commissioner Francisco.*

**RESEARCH FIRM APPROVED**

**FINAL RULE—CHAPTER 67, DEVELOPMENT AND MANAGEMENT OF RECREATION TRAILS ON STATE FORESTS, PARKS, PRESERVES AND RECREATION AREAS**

Linda DePaul, Forestry State Lands Supervisor, presented the following item.

The Commission is requested to approve the amendments of Chapter 67, Development and Management of Recreation Trails on State Forests, Parks, Preserves and Recreation Areas. There were 2 written comments and no oral comments received from the public. There were also a number of individual comments pertaining to lack of trails and the economic importance of equestrians to the State's economy. As a result of the comments and review by staff, no changes have been made to the rules originally published in the notice of intended action.

Proposed changes in Chapter 67, clarify that horses are restricted to trail riding only, when the trails are open. Off-trail riding for hunting purposes may be allowed on a case-by-case basis depending on the number of riders, area they wish to hunt and other use in the immediate area through special use approval. In addition, the conditions when trails will be closed are clarified in order to better protect the natural resources and the safety of the public.

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Amend 571—Chapter 67 as follows:

CHAPTER 67  
DEVELOPMENT AND MANAGEMENT OF  
RECREATION TRAILS ON STATE ~~LANDS~~ FORESTS, PARKS, PRESERVES AND  
RECREATION AREAS

**571—67.1(456A,461A) Applicability.** This chapter is applicable to all state-owned parks, recreation areas, forests and preserves, ~~game management areas and wildlife areas and public hunting areas~~ under the jurisdiction of the department of natural resources, except those areas under management by a local government entity.

**571—67.2(456A,461A) Definitions.**

“All-terrain vehicle” means ~~a two or three or four wheeled motor driven or human powered bike designed for all terrain use including trucks, jeeps~~ a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than eight



hundred cubic centimeters and in total dry weight to less than eight hundred fifty pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and other vehicles registered under Iowa Code chapter 321 321I.

“Areas” means any park, recreation area, forest, ~~or preserve, game management area, wildlife area or public hunting area~~ under the jurisdiction of the department of natural resources.

“Department” means the department of natural resources (DNR).

“Director” means the director of the department of natural resources or designee.

“Division administrator” means the division administrator of the DNR division responsible for managing the area in question.

“Equestrian” means horserider or horseback riding.

“Equestrian hunting permit” means application to the local forest, park, preserve or recreation area by hunters wishing to ride off-trail to hunt. This application will include the dates and area and provide a contact number in case of conflicts or questions. Applications will be evaluated for potential user conflicts and the potential for the need to obtain a “special event permit” (571--61.7(16)).

“Horse” means any equine animal including horses, mules, burros, donkeys, and all llamas or alpaca-like animals.

~~“Incidental use” means riding horses on all areas to travel from designated watering stations to trailheads; leaving a trail to rest; allowing others to pass; participating in an authorized field trial; hunting between the dates of August 1 and March 15; and individual, nonorganized pleasure riding between August 1 and March 15 where no formal trails have been designated, but where riding is permitted, and no more than four individuals are riding together. “Incidental use” also means bicycle riding on permanently established service roads on wildlife management areas where no formal trails have been designated but where riding is permitted and no more than four individuals are riding together.~~

“Snowmobile” means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice and any vehicle registered under Iowa Code chapter 321G.

**571—67.3(456A,461A) Purpose.** The purpose of this rule is to establish guidelines for developing and properly managing the use of recreation trails on state parks, recreation areas, forests and preserves ~~game management areas, wildlife areas and public hunting areas.~~

**571—67.4(456A,461A) Establishment of trails.** Establishment and designation of recreation trails shall not be undertaken until after a plan showing basic design, location and designated use for any such trail has been prepared. The ~~division administrator~~ director shall approve of all trail plans for areas under the administrator’s supervision and trails shall follow only those routes designated on the plan.

**571—67.5(456A,461A) Designation of recreation trails.** All trails shall be designated by the department. Designation shall include an assignment of the use or uses for which each trail is intended. Uses shall be classified as follows: foot traffic, horseback riding, snowmobiling, cross-country skiing, bicycling and multiple-use trails. The intended uses of trails shall be described on signs at appropriate locations within the area, in informational brochures about the area, or on

posted notice at the area's headquarters. ~~No trails shall be established for all terrain vehicles except human powered bikes.~~

**571—67.6(456A,461A) Guidelines for trail location.** Trails constructed and designated on any area shall be subject to the following guidelines and no new trail shall be constructed:

1. On any slope where erosion will occur unless measures are taken to permanently control erosion. The measures may include, but not be limited to: water bars, steps, vegetative or crushed stone surfacing and terraces;
2. Through rare or sensitive plant communities except for trails intended for interpretive purposes and designed for foot traffic only;
3. In locations where wildlife management practices are being carried out that would be negatively affected by trail activity;
4. To pass over archaeological sites, or adversely effect ~~upon or within 50 feet of~~ known archaeological sites eligible for the National Register of Historic Places or known sites not yet evaluated, ~~except for trails intended to lead to a site for interpretive purposes;~~
5. Where past trail use has resulted in erosion or other environmental damage that would be exacerbated by continued trail use;
6. So as to allow travel through a river, stream or wetland or waterway except at designated crossings.

**571—67.7(456A,461A) Control of trail use.**

**67.7(1)** Use of trails may be temporarily limited or suspended by the area manager when use or any natural event has created conditions that will cause the trail to degrade if further use is allowed. Guidelines may include, but are not limited to, the following considerations:

- a. ~~After a rainfall event or during thawing of sufficient amount to create significant potential erosion. Precipitation events (e.g.: rain, thaws, flooding that, based on the soils and topography present a problem for resource protection or public safety if the trail remains open).~~
- b. ~~When the surface of the trail has eroded more than 6 inches and it is evident that active erosion is occurring. Special events (e.g. events that are large, involve concessionaires, or otherwise trigger the "special event permit" as described in 571—subrule 61.7(16) and would interfere with the safety or enjoyment of other trails users).~~
- c. ~~When trail use has deviated from the established trailway and is resulting in off trail impacts. Ecosystem management activities (e.g. scheduled harvests, timber stand improvement, planting, controlled burns which temporarily would disrupt trail use).~~
- d. ~~In locations where wildfire has destroyed ground vegetation. Trail construction or repair.~~
- e. ~~When the volume of use has damaged a trail beyond normal wear. Off-trail use (e.g. vehicle or animal use as created damage off the actual trail which effect the trail and needs to be corrected).~~
- f. ~~When conflicts between trail users occur. Conflicts between users.~~
- g. Trail damage/erosion (e.g. over-use, use at wrong time, unauthorized vehicle use.)

**67.7(2) through 67.7(4)** No change.

**571—67.8(456A,461A) Use of designated trails.**

**67.8(1)** Bicyclists, equestrians and snowmobile operators shall use only trails officially designated and properly signed for such uses. No person riding a horse or bicycle shall leave the

designated trailway ~~except for incidental use, as defined in this rule. The area manager may temporarily close an area to incidental use by posting the area; however, no area shall be permanently closed without approval of the director.~~

**67.8(2)** Unless otherwise prohibited by law, the use of motorized all-terrain vehicles shall be limited to roadways on all areas except as necessary to carry on authorized activities such as area management, agricultural activity, search and rescue operations and special events authorized by the department.

**67.8(3)** A department of natural resource area manager may approve off-trail riding by approving a equestrian hunting permit. Any person or group wishing to request off-trail riding under an equestrian hunting permit must comply with the following conditions:

(a) The sponsor shall submit an application to the park manager or area forester where the proposed event is to take place. Application forms shall be furnished by the by the DNR. Submission of an application does not guarantee issuance of a permit by the DNR.

(b) Trail closure policies apply to equestrian hunting permits. It is the responsibility of the sponsor to contact the forest or park for current trail conditions prior to the equestrian hunting event.

**571—67.9(456A,461A)** No change.

These rules are intended to implement Iowa Code sections 455A.5, 456A.24 and 461A.35.

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Date

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Jeffrey R. Vonk, Director

Linda DePaul reviewed the changes to the rule. She said the intent of Chapter 67 has always been to keep riders on designated trails in order to keep the trails safer and in better condition and to better protect the natural resources. She said there have been considerable problems with unofficial trail riding.

DePaul pointed out that at the request of a group that hunts from mules, a provision was added to allow them to apply for a special equestrian hunting permit. She said a simple permit will be developed that may be issued at the beginning of the hunting season which will allow the local staff to know when those hunters are out there and to be able to notify them of any potential problems or when trails are closed.

*Motion was made by Commissioner Francisco to approve Final Rule—Chapter 67, Development and Management of Recreation Trails on State Forests, Parks, Preserves and Recreation Areas. Seconded by Commissioner Moore.*

**Rick Goode**, Iowa State Coonhunters, spoke regarding the Chapter 67 rule change. He expressed concern about being required to get a permit each time they want to hunt an area that they have always hunted in the past. He explained that mule riding hunters hunt at night when there is not much competition for use of the area. Mr. Goode also expressed concern about prior notification when an area is shut down. He suggested a permit good for the entire season and not on a day by day basis.

Commissioner Francisco remarked that his understanding is that intent is to give a permit for the entire season rather than a day by day or case by case basis.

Mr. Goode also expressed confusion on how the areas will be marked. He said there are various signages—parks, recreation areas, forestry and preserve areas, and in addition there are management areas, wildlife areas and public hunting that are all marked with the green and white sign.

Linda DePaul remarked that wildlife areas are managed separately and are signed differently. The state forests are clearly signed as state forests and state parks have state park signs. She added one reason it is important to have a permit is that there may be some public lands where hunting is not allowed. She said it is important for people to make the effort to check ahead of time to make sure hunting is being done where it is allowed. DePaul said all areas are mapped and can be checked on line. She said a responsible hunter should be aware of what land they are on.

Discussion continued on the wording with regard to the required permit and whether clarification needs to be made as to whether it says on a case by case basis instead of for the season. Also discussed were notification expectations when a trail is closed. DePaul noted that if there is a huge rain event or when a trail is closed, the local area manager can contact a permit holder to advise about the closing. The permit also will have a number to call to get a voice message to find out if a particular area is open. The rule does state that it is the responsibility of the sponsor to contact the forest or park for current trail conditions prior to the equestrian hunting event.

*Motion was made by Commissioner Francisco to amend 67.8(1) by striking the entire second sentence. Seconded by Commissioner Garst. Motion carried unanimously.*

*Motion was made by Commissioner Francisco to amend 67.2 Definitions to read “Equestrian hunting permit”, which may include an annual permit, means application to the local forest....”. Seconded by Commissioner Duncan. Motion carried unanimously.*

*Motion to approve the rule as amended carried unanimously.*

<b>FINAL RULE APPROVED AS AMENDED</b>
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## **TIMBER SALES**

Linda DePaul, Forestry State Lands Supervisor, presented the following item.

### **Shimek State Forest—Donnellson Unit, Lee County**

The Forestry Bureau is conducting a timber sale involving approximately 30 acres involving 420 trees (53,740 board feet (Scribner)) located on the Donnellson Unit of the Shimek State Forest. The trees are located Sections 32 & 33, Harrison Township, T68N, R7W, in Lee County. Trees are marked with blue paint.

The goal of the harvest is 2-fold. There are 3 small harvest sites. In two of the sites (Areas 1 and 3 on the map) is to increase the health and vigor of the stand by thinning out the number of trees in order to promote growth in the remaining trees. On Area 2 the goal is to create an opening to regenerate oak.

Site review was conducted during the summer of 2006 by DNR Wildlife Diversity Specialist, Daryl Howell. Several forest interior bird species were noted, but the harvest sites are near edges or forest boundaries, so forest fragmentation will be minimized. Because of the possibility of Indiana bat in the area, no logging will be allowed between April 15 and September 15<sup>th</sup> when the bats might be present in the area. No evidence of any archeological resources was noted.

Sealed bids were received until 3:00 p.m., Tuesday, October 24, 2006, at which time bids were opened.

The bids were as follows:

Langenbach's	\$27,001
Belden Logging	\$22,140
Jeremy Kubitz	\$19,811
Hammes Bros.	\$15,593
Griffith Logging	\$9,500

Staff recommends that the Commission accept of the bid from Langenbach's Wood Products for \$27,001.00. The successful bidder must execute a timber sale contract with the State of Iowa by November 30, 2006, and make payment at that time. Trees must be removed by March 31st, 2008. Liability insurance is required. Buyers must be bonded.

#### **AREA 1**

<b><u>Species</u></b>	<b><u># trees</u></b>	<b><u>board feet</u></b>
Red oak	20	2,880
White oak	58	6,340
Black oak	6	620
Hickory	7	520
Culls	10	
Total	91	10,360

#### **AREA 2**

<b><u>Species</u></b>	<b><u># trees</u></b>	<b><u>board feet</u></b>
Red oak	6	860
White oak	141	18,380
Black oak	5	720
Hickory	9	780
Culls	35	
Total	161	20,740

**AREA 3**

<u>Species</u>	<u># trees</u>	<u>board feet</u>
Red oak	17	6,320
White oak	50	12,860
Black oak	97	3,100
Hickory	4	360
<u>Culls</u>	<u>52</u>	
Total	118	22,640
<b>GRAND TOTAL</b>	<b>420</b>	<b>53,740</b>

*Motion was made by Commissioner Francisco to accept the bid from Langenbach's Wood Products for \$27,001.00 for the sale of approximately 30 acres involving 420 trees (53,740 board feet (Scribner)) located on the Donnellson Unit of the Shimek State Forest in Lee County. Seconded by Commissioner Duncan. Motion carried unanimously.*

<b>TIMBER SALE APPROVED</b>
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**Stephens State Forest, Lucas County**

The Forestry Bureau is conducting a timber sale involving approximately 10 acres involving 261 trees (42,620 board feet (Scribner)) located on the Lucas Unit of the Stephens State Forest. The trees are located in Section 22, Jackson Township, T72N, R23W, in Lucas County. Trees are marked with blue paint.

This is a scheduled harvest of primarily of mature silver maple. The goal for this site is to encourage regeneration by creating several small patch cuts over a 10-acre area. The stand is silver maple, hackberry and walnut. Most of the maple is being removed to create space for walnut regeneration and growth.

This proposed sale was checked by Daryl Howell, DNR Wildlife Diversity Specialist. There was no indication that any endangered plant or animal species, although the possibility of Indiana bat exists in this area. Indiana bat habitat will be protected by allowing harvest only during the fall, winter and early spring when the bats are not in the area. The harvest is near the edge of the forest and therefore minimizes fragmentation. There are no known archeological sites on the area.

Harvesting will only be allowed when the ground is firm, dry or frozen. Steep slopes will not be harvested. Access is through state lands.

Sealed bids were received until 3 PM., Monday, October 23, 2006, at which time bids were opened. The sale will be awarded to the highest bidder.

The bids were as follows:

Hammes Bros	\$19,561.00
Belden Logging, Inc.	\$15,445.00
Griffiths Logging	\$11,500.00
Batey Ltd	\$8,420.00
Price Logging	\$7,270.00

The successful bidder was Hammons Brothers Logging. They must execute a timber sale contract with the State of Iowa by November 30, 2006, and make payment at that time. Trees must be removed by March 31, 2008. Liability insurance is required. Buyers must be bonded.

<u>Species</u>	<u># trees</u>	<u>board feet</u>
Silver Maple	218	35,060
Basswood	8	1,160
Hackberry	17	2,480
Ash	9	1,520
<b>Total</b>	<b>261</b>	<b>42,620</b>

**INFORMATIONAL ITEM**

**FINAL RULE—CHAPTER 81, SPORT FISHING RULE**

Marion Conover, Fisheries Bureau Chief, presented the following item.

Approval is requested to amend Chapter 81, Sport Fishing Rule. The proposed amendments modify length limit regulations for walleye at some lakes, lower the minimum length limit for largemouth bass at Green Valley Lake, and remove the daily bag limit and size restriction for hybrid striped bass in Big Creek Lake.

A 17-inch to 22-inch protected slot length limit replaces the minimum length of 14 and 15 inches at the Iowa Great Lakes and Storm Lake respectively. Walleye less than 17 inches and greater than 22 inches may be harvested with no more than one walleye greater than 22 inches permitted per day. The daily bag limit remains at three fish. The proposed length limit changes would increase brood stock density (fish over 17 inches), increase angler harvest by 20 - 40 percent, and decrease hooking mortality. The 15-inch length limit at Viking Lake is removed as the lake fishery was renovated this fall.

The 22-inch minimum length limit at Green Valley Lake would be lowered to the standard statewide limit of 15 inches. The fish population at Green Valley Lake is in transition with a growing carp and yellow bass population. Renovation of the fishery is projected in 2008.



Growth of hybrid striped bass (wipers) in Big Creek Lake has been extremely slow. The daily bag and possession limit and minimum size limit is being removed.

Comments received from the eight public were directed at the walleye regulations in the Iowa Great Lakes. Concern was expressed by six people regarding possible overharvest of fish less than 14 inches.

**NATURAL RESOURCE COMMISSION [571]  
Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 81 "Fishing Regulations," Iowa Administrative Code.

The proposed amendments modify length limit regulations for walleye at specific lakes, lower the minimum length limit for largemouth bass at Green Valley Lake, and remove the daily bag limit and size restriction for hybrid striped bass in Big Creek Lake.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006 as ARC 5348B. Public hearings were held on September 22, 2006, and September 25, 2006. There are no changes from the notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, and 481A.76.

These amendments will become effective January 10, 2007.

The following amendments are proposed.

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**ITEM 1. Amend subrule 81.2(2) as follows:**

**81.2(2)** Black bass. A 15-inch minimum length limit shall apply on black bass in all public lakes except as otherwise posted. On federal flood control reservoirs, a 15-inch minimum length limit shall apply on black bass at Coralville, Rathbun, Saylorville, and Red Rock. All black bass caught from Lake Wapello, Davis County, and Brown's Lake, Jackson County, must be immediately released alive. ~~A 22-inch minimum length limit shall apply on black bass in Green Valley Lake, Union County.~~ A 12-inch minimum length limit shall apply on black bass in all interior streams, river impoundments, and the Missouri River including chutes and backwaters of the Missouri River where intermittent or constant flow from the river occurs. A 14-inch minimum length limit shall apply to the Mississippi River including chutes and backwaters where intermittent or constant flow from the river occurs. All black bass caught from the following stream segments must be immediately released alive:

1. Middle Raccoon River, Guthrie County, extending downstream from below Lennon Mills Dam at Panora as posted to the dam at Redfield.
2. Maquoketa River, Delaware County, extending downstream from below Lake Delhi Dam as posted to the first county gravel road bridge.
3. Cedar River, Mitchell County, extending downstream from below the Otranto Dam as posted to the bridge on County Road T26 south of St. Ansgar.
4. Upper Iowa River, Winneshiek County, extending downstream from the Fifth Street bridge in Decorah as posted to the Upper Dam.

**ITEM 2. Rescind subrule 81.2(3) and adopt the following new subrule in lieu thereof:**



## 81.2(3)Exceptions to walleye regulations:

- a. Lakes West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar in Dickinson County, and Storm Lake in Buena Vista County. A 17 inch to 22 inch protected slot length limit shall apply. Walleye less than 17 inches and greater than 22 inches may be harvested. The daily bag limit shall be three with a possession limit of six. No more than one walleye above 22 inches may be taken per day.
- b. Clear Lake, Cerro Gordo County. A 14 inch minimum length limit shall apply on walleye. The daily bag limit shall be three with a possession limit of six. No more than one walleye above 22 inches may be taken per day.
- c. Black Hawk Lake, Sac County. A 15 inch minimum length limit shall apply on walleye. The daily bag limit shall be three with a possession limit of six.
- d. Big Creek Lake, Polk County. A 15 inch minimum length limit shall apply on walleye. The daily bag limit shall be three with a possession limit of six. No more than one walleye above 20-inches may be taken per day.
- e. A 15-inch minimum length limit shall apply on walleye in the Mississippi River. All walleye from 20 inches to 27 inches in length that are caught from Mississippi River Pools 12 through 20 must be immediately released alive. No more than one walleye above 27 inches may be taken per day from Pools 12 through 20.

**ITEM 3. Amend subrule 81.2(12) by rescinding lettered paragraph “a” and re-lettering paragraph “b” as “a.”**

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Date

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Jeffrey R. Vonk, Director

Mr. Conover reviewed changes to the rule and noted the comments received during the public comment period.

*Motion was made by Commissioner Francisco to approve Final Rule—Chapter 81, Sport Fishing Rule. Seconded by Commissioner Duncan. Motion carried unanimously.*

**FINAL RULE APPROVED**

**NOTICE OF INTENDED ACTION—CHAPTER 87, MUSSEL REGULATIONS**

Marion Conover, Fisheries Bureau Chief, presented the following item.

Approval is requested to file a Notice of Intended Action to amend Chapter 87, "Mussel Regulations." The proposed action closes the season for commercial harvest of mussels in waters of the Mississippi River common with the state of Illinois.

Commercial harvest of mussels has historically been permitted only from the Mississippi River. Harvest by licensed shellers peaked in 1990 at 2.4 million pounds. Harvest has declined since and no harvest has been reported since 1998. The number of licensed shellers has also declined from 460 in 1990 to zero since 1999.

The decline in harvest is attributed to many factors including decreased demand, removal of washboard mussels from permissive catch, and decline in native mussel populations as a result of the invasion of zebra mussels. Even though Iowa has no harvest presently, native mussel numbers are still declining and any resumption of commercial harvest in the near future will accelerate ongoing stock declines.

This action will bring closure to commercial harvest of mussels in any waters of the State. Action taken by the NRC last year closed harvest in waters of the Mississippi River common with Wisconsin. Wisconsin did effect rule making to also close their commercial mussel harvest. Illinois has not made the commitment to do the same, but this action by Iowa is responsive to the resource issue at hand.

#### NATURAL RESOURCE COMMISSION [571]

##### Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 87, "Mussel Regulations," Iowa Administrative Code.

The proposed amendment closes the commercial harvest of mussels in the waters of the state.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 4, 2007. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, 502 East 9<sup>th</sup> Street, Des Moines, Iowa 50319-0034; fax (515) 281-6794. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515) 281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing, January 4, 2007 at 1:00 PM in the Wallace State Office Building, Fourth Floor Conference Room, 502 East 9<sup>th</sup> Street, Des Moines, Iowa.

At the public hearing persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 482.1 and 482.12.

The following amendments are proposed.

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Rescind rules 87.1 and 87.2 and adopt the following new rule in lieu thereof:

**571-87.1(481A) Seasons, areas, methods, species, limits.** The taking and possession of mussels from the public waters of the state shall be limited to the following regulations.

**87.1(1) Seasons.** There shall be an open season for taking mussels throughout the year. The taking of mussels is restricted to the hours between sunrise and sunset.

**87.1(2) Species.** Species other than those listed as threatened or endangered may be lawfully taken and possessed. Zebra mussels shall not be taken and possessed.

**87.1(3) Areas.** Live mussels may be harvested only from the Mississippi River and connected backwaters. Dead mussels may be harvested from all waters of the state.

**87.1(4) Limits.** The possession limit is 24 whole mussels or 48 shell halves. The sale of mussels or shells is not permitted. Licensed commercial fishers, licensed sport anglers, and children younger than 16 years of age may take and possess mussels.

**87.1(5) Methods.** Mussels may be taken by hand, pole and line, diving, and crowfoot bar not to exceed 20 feet in length.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey R. Vonk, Director

Mr. Conover reviewed that this rule change would close the season for commercial harvest of mussels in waters of the Mississippi River common with the state of Illinois. He explained the history of mussel harvest and answered individual questions.

*Motion was made by Commissioner Francisco to approve Notice of Intended Action—Chapter 87, Mussel Regulations. Seconded by Commissioner Garst. Motion carried unanimously.*

**NOTICE APPROVED**

## **NOTICE OF INTENDED ACTION—CHAPTER 94, NONRESIDENT DEER HUNTING**

Dale Garner, Wildlife Bureau Chief, presented the following item.

The Commission is requested to approve a Notice of Intended Action to amend Chapter 94 – Nonresident Deer Hunting. This amendment sets quotas for nonresident licenses and requires successful hunters to report their kill.

### **NATURAL RESOURCE COMMISSION [571] Notice of Intended Action**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, “Nonresident Deer Hunting,” Iowa Administrative Code.

Chapter 94 gives the regulations for hunting deer and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements. This amendment sets quotas for nonresident licenses and requires successful hunters to report their kill.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 11, 2007. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 11, 2007, at 10:30 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.8.

The following amendment is proposed.

ITEM 1. Amend subrules 94.1 and 94.1(1) as follows:

**571-94.1(483A) Licenses.** Every hunter must have in possession a valid nonresident deer license, a valid nonresident hunting license, and proof that the hunter has paid the current year's wildlife habitat fee when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while deer hunting or tagging a deer.

**94.1(1) Types of licenses.**

a. *Any-deer licenses.* Any-deer licenses shall be valid for taking deer of either sex in the zone and season designated by the hunter when the application is submitted as described in rule 94.8 (483A).

b. *Mandatory antlerless-only licenses.* Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-only license for the same zone and season as the any-deer license. If the hunter is unsuccessful in drawing an any-deer license, neither the any-deer nor antlerless-only license will be issued.

c. *Optional antlerless-only licenses.* A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 94.8 (483A). This antlerless-only license shall be valid in the ~~zone~~ county and season designated by the hunter at the time it is purchased.

d. *Antlerless deer defined.* Antlerless-only licenses shall be valid for taking deer that have no forked antler.

ITEM 2. Amend subrules 94.6(1) and 94.6(2) as follows:

**94.6(1) Zone license quotas.** Nonresident license quotas are as follows:

	Any-deer licenses		Mandatory	Optional
	All Methods	Bow	Antlerless-only	Antlerless-only
Zone 1.	180	63	180	
Zone 2.	180	63	180	
Zone 3.	560	196	560	

Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	600	210	600	
Zone 10.	200	70	200	
Total	6000	2100	6000	3500 statewide

**94.6(2) Quota applicability.** The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 any-deer licenses and 6,000 mandatory antlerless-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 any-deer and 6,000 mandatory antlerless-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 3,500 optional antlerless-only licenses, ~~regardless of season or zone,~~ will be issued ~~for the entire state~~ on a county by county basis. The licenses will be divided up between the counties in the same proportion as resident antlerless-only licenses. Hunters must designate a zone or county and season when purchasing the license and hunt only in that zone or county and season.

ITEM 3. Amend subrule 94.8(2) as follows:

**94.8(2) Optional antlerless-only licenses.** Optional antlerless-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 94.8(1). Optional antlerless-only licenses will be sold first-come, first-served until the ~~statewide~~ county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-only licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. Optional antlerless-only licenses will be issued by season and ~~zone~~ county and will be valid only in the season and ~~zone~~ county designated by the hunter at the time the license is purchased.

*a. Nonresident landowners.* Nonresidents who own land in Iowa will have preference in obtaining optional antlerless-only licenses. Nonresidents must qualify as landowners following the criteria stated in [571-subrule 106.12 \(1\)](#) and [571-subrules 106.12 \(3\) through 106.12 \(6\)](#), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-only licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may claim landowner preference in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may exclusively purchase optional antlerless-only licenses for the first 14 days of the sale period. Such proof must be provided before an optional antlerless-only license can be purchased and must be resubmitted each year in which an optional antlerless-only license is purchased.

*b. Nonresident proof of land ownership.* Nonresidents who request preference for optional antlerless-only licenses will be required to submit a copy of their state of Iowa property tax

statement for the current year or sign an affidavit that lists the legal description of their land, date purchased, and book and page number, or instrument number, where the deed is recorded.

c. *Nonresidents who do not own land in Iowa.* Nonresidents who are not Iowa landowners may purchase optional antlerless-only licenses beginning the fifteenth day after they are available to landowners.

ITEM 4. Adopt **new** rule 94.11 as follows:

**571-94.11(481A) Harvest reporting.** Each hunter who bags a deer must report that kill according to procedures described in [571-95.1](#) (481A).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey R. Vonk, Director

Mr. Garner reviewed the proposed changes to the rule.

*Motion was made by Commissioner Kramer to approve Notice of Intended Action—Chapter 94, Nonresident Deer Hunting. Seconded by Commissioner Francisco. Motion carried unanimously.*

**NOTICE APPROVED**

## **AGREEMENT WITH CITY OF EMMETSBURG**

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item.

Approval is requested for the Department of Natural Resources Department to enter into an agreement the city of Emmetsburg. The purpose is to continue lake dredging operations at Five Island Lake (Palo Alto County). This project is being funded through the State Environment First Fund, and this project is listed in the DNR's FY 2007 Infrastructure and Capitals Plan. Each city is responsible for providing 1–1 match for these dollars. The city of Emmetsburg is requesting up to \$220,000 in matching funds.

The city of Emmetsburg is in the final stages of their dredging project and anticipates completion in two to three years.

We recommend that the Department enter into an agreement with the city of Emmetsburg for this dredging project.

*Motion was made by Commissioner Kramer to enter into an agreement with the city of Emmetsburg in order to continue lake dredging operations at Five Island Lake (Palo Alto County). Seconded by Commissioner Moore. Motion carried unanimously.*

**AGREEMENT APPROVED**

**AGREEMENT WITH LAKE DELHI RECREATION ASSOCIATION**

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item.

Approval is requested for the Department of Natural Resources to enter into an agreement with the Lake Delhi Recreation Association. The purpose is to continue lake dredging operations at Lake Delhi (Delaware County). This project is being funded through the State Environment First Fund, and this project is listed in the DNR's FY 2007 Infrastructure and Capitals Plan. The association is responsible for providing a 1-1 match for these dollars. The Lake Delhi Recreation Association is requesting up to \$225,000.

We recommend that the Department enter into an agreement with the Lake Delhi Recreation Association for this dredging project.

Short discussion ensued regarding this dredging project as well as the watershed protection plan for the area.

*Motion was made by Commissioner Francisco to enter into an agreement with the Lake Delhi Recreation Association in order to continue lake dredging operations at Lake Delhi (Delaware County). Seconded by Commissioner Kramer. Motion carried unanimously.*

**AGREEMENT APPROVED**

**COMPREHENSIVE WILDLIFE ACTION PLAN UPDATE**

Doug Harr, Wildlife Diversity Program Coordinator, presented the following information.

The Iowa Wildlife Action Plan (IWAP), formerly called the Iowa Comprehensive Wildlife Conservation Plan, was prepared over a period of two years and submitted to the U.S. Fish & Wildlife Service for Approval in September, 2005. Conditional approval was received in December, 2006, with final approval dependent upon further clarification and expansion of the chapter on inventory, monitoring and research. That chapter was re-written and expanded, with resubmission in June, 2006. Final, unconditional approval awarded in August, 2006. This approval assures that Iowa may retain all State Wildlife Grant allocations received to date (~\$4.5 million) and is qualified to receive whatever Congress elects to appropriate in the future, beginning with federal FY 2007.

Accomplishments IWAP objectives

All State Wildlife Grant projects dating back to 2001 might be considered applicable to meeting IWAP's six identified visions, as acceptance of these grants was predicated upon a requirement that all states receiving SWG funds *would* produce a comprehensive plan. In addition, other actions have been taken by the Conservation and Recreation Division, other agencies and NGOs that also contribute to the plan's visions. Specifically, SWG projects contributing to IWAP goals include:



- Acquisition of 3,820 acres of wildlife lands especially for “Species of Greatest Conservation Need” (SGCN)
- Completion or implementation of 12 research projects focused upon SGCN need and/or their habitats
- Implementation of a program to enhance, restore or recreate diverse native tallgrass prairie on Iowa’s public lands (~1,200 acres accomplished to date)
- Construction of a dedicated facility for the sole purpose of production, harvest, storage and distribution of native prairie seed, especially forbs, to increase effectiveness and speed of prairie restoration on public lands.
- Commencement of a project to update Iowa’s wetland mapping and inventory
- Creation and implementation of Iowa’s first comprehensive, statewide system of inventorying and monitoring all wildlife (including employment of a new research biologist dedicated to this project), especially concentrating on SGCN

Other progress toward IWAP goals includes:

- Increased funding for wildlife, especially SGCN, through approximately \$600,000 of new REAP Natural Resource license plates (year 1 income)
- Improved integration of nongame wildlife habitat management needs into traditional management of state wildlife and forest lands
- Identification of priority areas/landscapes for future protection, including some critical connecting corridors
- New coordination with USDA-NRCS to improve management of WRP contracts for SGCN
- Implementation of the Landowner Incentive Program (LIP) to assist private landowners with improved management for both T&E species and SGCN
- Other increased focus upon improved habitat management on private lands through the Wildlife Bureau’s Private Lands Program and the Bird Conservation Area program.

Areas in need of Improvement:

Two visions addressed in the IWAP have yet to realize significant progress, at least through State Wildlife Grant funded projects. Federal guidelines for SWG applications forbid use of funds for enhancing wildlife-public education and recreation. However, ongoing activities of DNR, through Parks Bureau, Communications Bureau, County Conservation Boards and NGOs are addressing some aspects of the plan. Without additional, sustainable, and less restrictive funding, however, DNR and its partners will not be able to attain goals set forth in the wildlife education and recreation visions of the IWAP.

Finally, there is need for a staff or contract person able to devote at least ¼ to ½ time to conduct and oversee plan implementation. This would help assure that visions, goals and objectives are being met, provide coordination with other agencies and NGOs that have great stake in the partnerships identified as necessary to IWAP success and better document progress made by IWAP to meet with probable federal reporting needs. The Wildlife Bureau, and especially the Wildlife Diversity Program, presently cannot afford to make this assignment a priority for any



current staff without decreasing or detracting from ongoing programs also critical to plan implementation and progress.

<b>INFORMATION ITEM</b>
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## MEETING DATES AND LOCATIONS FOR 2007

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item

Listed below are the dates for the Natural Resource Commission meetings for 2007. The meetings are scheduled for the second Thursday of the month. Generally there is no regular meeting in January, April or July, but a telephone meeting may be held if necessary. There will be a tour on the Wednesday afternoon before the meeting when the meeting is held outside of Des Moines.

January 17	-	Legislative Breakfast
February 8	-	Des Moines
March 8	-	Lake of Three Fires and area
April 12	-	Scott County/Wapsi Environmental Center
May 10	-	Crystal Lake and area
June 14	-	Urban Trout stream/Palisades Kepler State Park
July 12	-	No Meeting
August 9	-	Stone State Park
September 13	-	Springbrook Education Center
October 11	-	Yellow River State Forest and area
November 8	-	Des Moines
December 13	-	Des Moines

There was brief discussion regarding the dates and locations. Suggestion was made that some Commissioners may be interested in attending the annual events in Clear Lake following the August meeting.

<i>Motion was made by Commissioner Francisco to approve the meeting dates and locations for 2007. Seconded by Commissioner Duncan. Motion carried unanimously.</i>
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<b>MEETING DATES AND LOCATIONS APPROVED</b>
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## GENERAL DISCUSSION

Note was made regarding the invitation to attend the Volunteer Awards Banquet on November 18 at the Botanical Center.

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Director Vonk related that the launch or unveiling of the new format for the department's magazine *Iowa Outdoors* is being planned for the evening before the December 14 NRC meeting. Commissioners will be invited to attend that ceremony.

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Commissioner Francisco thanked the Commission and Department for inviting him to attend the US Fish and Wildlife Agencies meeting in Aspen, Colorado. He noted that the Western Division of the Association of F&W Agencies has always had a Commissioner's Committee, but the other divisions have not. Since the Western Division was hosting the North American meeting this year they asked the state directors to invite their commissioners. He commented that Iowa is fortunate to have a director who understands the importance of an informed commission. He said he attended interesting seminars on bio fuels and conservation and sustainable funding and sat in on other interesting presentations and seminars. He also noted the various differences in other states' commissions and boards, their authority and how they operate. Francisco said that at the business meeting of the Commissioners Committee, a Resolution was passed that the Association make the Commissioner's Committee a Standing Committee; therefore, invitations to those meetings will start going out to all commissioners. The next meeting will be in Louisville, Kentucky on September 16-21.  
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Commissioner Garst reported that she had obtained an Iowa Travel Guide; a guide published by the Division of Tourism. She remarked that it is comprehensive except for one thing—the guide contained nothing about natural resources in the state. She said she had previously talked to staff about this and was told that staff is talking about this type of communication.

## NEXT MEETING

The next meeting will be held December 14, 2006 in Des Moines.

## ADJOURNMENT

<i>Motion was made by Commissioner Francisco to adjourn the November 9, 2006 NRC meeting. Seconded by Commissioner Moore. Meeting adjourned at 11:15 a.m.</i>
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Jeffrey R. Vonk, Director

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Joan Schneider, Chairperson

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Elizabeth Garst, Secretary

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